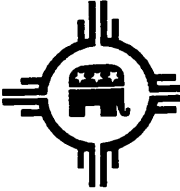


ORIGINAL



REPUBLICAN PARTY OF NEW MEXICO

October 24, 1997

JOHN DENDAHL
Chairman

BEFORE THE FEDERAL ELECTION COMMISSION

Democratic Party of New Mexico)
)
 Eric Serna for Congress Committee)
 FEC ID Number C00325944)
)
 Democratic Republican Independent Voter)
 Education Committee (Teamsters Union))

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

COMPLAINT

The Republican Party of New Mexico, by and through its Chairman, John Dendahl, brings this complaint pursuant to 2 U.S.C. § 437g(a)(1). The Republican Party of New Mexico may be reached at 2901 Juan Tabo N.E., Suite 116, Albuquerque, NM 87112.

I. SUMMARY

In May of this year, this Committee alerted the Federal Election Commission ("FEC") to the fact that the Democratic Party of New Mexico ("DPNM") was funneling massive quantities of "soft money" into the special election for the 3rd district of New Mexico. Specifically, the DPNM used 86% non-federal dollars to pay for exclusively federal get-out-the-vote, voter drive and absentee ballot request expenses. Soft money may not be used in federal elections, 2 USC § 441b, but the DPNM poured massive quantities of soft money in their failed attempt to purchase the third district seat for Eric Serna. Such attempts at using prohibited corporate and labor union money to purchase a Congressional seat for Eric Serna were unlawful and merit thorough Commission audit and investigation.

This Complaint is intended to (1) amend the prior filing by itemizing over \$104,000 in specific, reported soft dollar expenditures clearly intended to influence voting in the special (federal) election (as opposed to issue advocacy); (2) bring to the Commission's attention DPNM's acceptance of apparently earmarked contributions by the Teamsters' PAC, D.R.I.V.E, and others, and (3) highlight over \$40,000 in soft money payments to Mr. Randy Dukes that intentionally fail to disclose the true payee and appear to have been made to influence the federal election.

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II. FACTS & DISCUSSION

1. THE DPNM SPENT MORE THAN \$100,000 IN SOFT MONEY ON SPECIFIC EFFORTS TO INFLUENCE THE FEDERAL ELECTION

In a prior complaint, this Committee itemized over \$35,000 in specific DPNM soft money expenditures expressly made to influence the 1997 special election in the third district of New Mexico. This complaint itemizes over \$104,000 more in soft money spent by DPNM in that race.

Unlike generic voter drive expenses that would register voters for both federal and non-federal elections, party committee expenses that are specific to a federal race -- getting voters to vote early or vote by mail when there is only one federal election in which to vote -- should be paid for exclusively with federal funds. As its own reports make clear, the DPNM paid for many expenditures specific to this federal election with 86% non-federal funds. These funds financed telephone banks and radio ads that urged citizens to "vote," "vote early," or "vote by mail." Unlike the soft dollars the DPNM spent on alleged issue ads with the November Group -- \$79,980 -- the soft money used for vote-specific messages (over \$104,000) was illegal. 2 U.S.C. § 441b.

The Commission should investigate these soft dollar expenditures and others made by the DPNM out of its non-federal coffers. At a minimum, DPNM's federal account should be required to reimburse its non-federal account. Upon information and belief, this Committee further believes that the DPNM get-out-the-vote, voter drive and issue advocacy expenditures were made at the request of and in close coordination with the Serna for Congress committee. Under Commission precedent, such expenditures would amount to improper and excessive contributions to the Serna Committee.

ITEMIZATION OF SOFT MONEY EXPENDITURES BY DPNM FOR ERIC SERNA'S LOSING FEDERAL ELECTION CAMPAIGN

Activity Exclusively Related to the <u>Federal Election</u>	<u>Vendor</u>	<u>Date</u>	<u>Amount of Soft Money Spent in Federal Election</u>
Voter Drive Ads	KLVO Radio	4/24/97	\$406.52
Voter Drive Ads	KABQ-AM Radio	4/24/97	\$1,143.85
Voter Drive Ads	KXKS Radio	4/24/97	\$915.08
Voter Drive Ads	KEXT-FM Radio	4/24/97	\$571.93
Voter Drive Ads	KALY Radio	4/24/97	\$915.08
Voter Drive Ads	KNMX Radio	4/24/97	\$494.01
Voter Drive Ads	KDCE Radio	4/24/97	\$939.70
Voter Drive Ads	KFUN-AM / KLVF-FM	4/24/97	\$384.23
Voter Drive Ads	KSWV Radio	4/24/97	\$1,151.60
Voter Drive Ads	KXTC Radio	4/24/97	\$131.50
Voter Drive Ads	KGLX Radio	4/24/97	\$1,022.80
Voter Drive Ads	Mellenium Radio	4/24/97	\$116.05
Voter Drive Ads	KNDN Radio	4/24/97	\$1,224.49
Voter Drive Ads	KGAK Radio	4/24/97	\$1,241.97

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**ITEMIZATION OF SOFT MONEY EXPENDITURES BY DPNM
FOR ERIC SERNA'S LOSING FEDERAL ELECTION CAMPAIGN, con't.**

Activity Exclusively Related to the <u>Federal Election</u>	<u>Vendor</u>	<u>Date</u>	Amount of Soft Money Spent in <u>Federal Election</u>
Voter Drive Ads	KTNN Radio	4/24/97	\$653.60
Voter Drive Ads	KGLX Radio	4/24/97	\$1,022.80
Voter Drive Ads	KXTC Radio	4/24/97	\$876.68
Voter Drive Ads	Mellenium Radio	4/24/97	\$444.92
Door Hangers	Diversified Printing	4/28/97	\$6,293.73
"Vote Early, Vote-by- Mail" Phone	Tyson Organization	4/28/97	\$20,704.50
Voter Drive Ads	K-VIVA Radio	5/2/97	\$494.20
"Early Vote, Vote-by- Mail" Postcards	American Data Management	5/2/97	\$5,846.28
"Vote Early, Vote-by- Mail" Phone	Tyson Organization	4/28/97	\$15,866.70
Voter Contract	The Target Group	5/8/97	\$2,1500.00
Voter Drive Ads	KGAK Radio	5/8/97	\$189.95
Voter Drive Ads	KNDN Radio	5/8/97	\$120.26
Voter Drive Ads	KXTC Radio	5/9/97	\$111.34
"Printing Flyers [for] Polling Places"	General Printing Services	5/9/97	\$524.11
Door Hangers	Diversified Printing	5/9/97	\$1,754.76
"Vote Early, Vote-by- Mail" Phone	Tyson Organization	5/12/97	\$16,093.10
Voter Contact Phone	The Target Group	Undisclosed	\$1,317.18

Unlike issue advertising expenditures, these get-out-the-vote and voter drive expenses clearly entail electioneering. They should have been paid for with 100% federal funds.

**2. DPNM APPEARS TO HAVE SOLICITED AND RECEIVED
EARMARKED CONTRIBUTIONS FROM D.R.I.V.E. AND OTHERS**

In its Post-Special Election report, the DPNM identified the following contributions as having been made / received for the Special Election in the 3rd Congressional District:

Teamsters DRIVE Political Fund	5/2/97	\$5,000
Diane Wood	4/30/97	\$101
Fabian Chavez	5/16/97	\$500
Joseph Montoya	5/16/97	\$300
Tino Monaldo	5/5/97	\$1,000

Political committees receive and report contributions based on the calendar year cycle. Contributions received with specific instructions from the contributor -- for example "for use in the 3rd C.D. special election" -- are "earmarked" and count towards the candidate on whose behalf they

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are to be used. According to its own reports, DPNM received contributions specifically for this election, in several cases from contributors who had already contributed to the Serna Committee.

The Commission should examine all DPNM fund-raising solicitations around the time of this special election and determine whether the individuals who contributed to DPNM were promised or requested that their contributions be used for Eric Serna's failed election bid.

3. **LOOSELY-DISCLOSED EXPENDITURES MADE THROUGH RANDY DUKES ILLEGALLY USED \$40,000 IN SOFT DOLLARS**

Roughly \$48,000 in election-related expenditures made by the DPNM during the five weeks from April 24 through June 2, 1997, went through DPNM staffer Randy Dukes. The purpose of the disbursements to Mr. Dukes was reported as "Field Expenses, Canvassing, Generic," although the ultimate payee is nowhere mentioned. (Upon information and belief, Mr. Dukes did not himself perform the canvassing services).

It appears that these canvassing and field expenses -- like the get-out-the-vote-expenses -- related to the federal election for which Mr. Dukes was in town. Consequently, the expenses should have been paid for with 100% federal dollars, and not \$40,000 in soft money. If such expenditures were coordinated with the campaign -- or the canvassing results were shared with the campaign -- the costs would need to have been paid with exclusively hard dollars and would have counted against coordinated limits. The Commission should demand a detailed accounting of Mr. Dukes' use of \$40,000 in soft dollars as it related to the special election.

III. **PRAYER FOR RELIEF**

The Commission should investigate the Democratic Party of New Mexico's use of 86% "soft" money to fund activities that were clearly not generic, since they related to a federal election alone. Get-out-the vote expenses for a single federal election must be paid with federal funds, even if they are not coordinated with the candidate. The DPNM's brazen use of soft money is illegal and unfair, and restitution must be made. The Commission should take any and all appropriate measures to ensure DPNM's compliance with the law and to deter future wrongdoing.

Respectfully Submitted,



John Dendahl
Chairman
Republican Party of New Mexico

State of New Mexico

Signed and sworn to before me this 24 th day of October, 1997.



NOTARY PUBLIC

My commission expires: June 12, 2001

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